

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 21-97
)	
DRESHAWN MCBROOM)	

ORDER ON MOTION TO BIFURCATE

Defendant has filed a Motion to Bifurcate Count Three of the Superseding Indictment from the two drug charges set forth in Counts One and Two. Count Three charges Mr. McBroom with being a felon unlawfully possessing a firearm and ammunition in violation of 18 U.S.C. § 922(g)(1). In order to establish the § 922(g)(1) felon in possession offense, the government must prove that Mr. McBroom had been convicted of a crime punishable by imprisonment for a term exceeding one year. It is the introduction of evidence that Mr. McBroom has committed prior crimes that potentially prejudices the jury with respect to the other charged crimes. As stated in the Third Circuit Model Criminal Jury Instructions, “[e]vidence that the defendant is a convicted felon tends to prejudice the defendant, generating a risk that the jury will conclude that the defendant is more likely to have committed the offence(s) for which the defendant is on trial simply because the defendant has previously been convicted. “ *See* Comment to §§ 6.18.922G and 6.18.922G-1.

The Motion will be partially granted in that the Court will not totally bifurcate Count Three. Instead, the jury will be asked to answer a special interrogatory to determine if Mr. McBroom possessed the firearm and ammunition at issue on February 19, 2021. If the jury answers that question affirmatively, the parties will then present any evidence as to the remaining elements of the section 922(g)(1) charge in a bifurcated proceeding. The parties

will be provided with representative samples as to this issue to be used in voir dire, the preliminary charge, the final charge, and the verdict slip.

AND NOW, this 6th day of June 2024, Dreshawn McBroom's Motion to Bifurcate, ECF No. 163, is GRANTED as explained above.


Marilyn J. Horan
United States District Judge